

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Belar B., III & Maxine Hunt)
 Dist. 6, Map 90, Group C, Control Map 90,) Blount County
 Parcels 57.00 & 58.00)
 Residential Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel 57.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$89,500	\$318,100	\$407,600	\$101,900

Parcel 58.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$75,000	\$57,800	\$132,800	\$33,200

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 14, 2006 in Maryville, Tennessee. In attendance at the hearing were Belar and Maxine Hunt, the appellants, Mike Morton, Blount County Assessor of Property, and staff appraiser David Easter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Background

Subject property consists of a 2.53 acre tract improved with a residence constructed in 1992 (parcel 57) and a 2.10 acre tract improved with a residence constructed sometime around 1900 (parcel 58). Both parcels are located on Old Niles Ferry Road in Maryville. The taxpayers reside in the residence on parcel 57 and rent the home on parcel 58 for \$500.00 per month.

The administrative judge consolidated these appeals for decision making purposes because of the common representation, issues and findings. For ease of understanding, the administrative judge will summarize the parties' contentions for each parcel separately.

II. Contentions

A. Parcel 57.00

The taxpayers contended that this parcel should be appraised at \$310,000 - \$325,000. In support of this position, the taxpayers argued that subject home lacks certain amenities typically found in homes that sell for \$400,000 such as higher quality countertops, appliances and light fixtures. Moreover, the taxpayers asserted that in order to command a

price of \$400,000 it would be necessary to add a sunroom and deck as well as replace the roof. The taxpayers introduced estimates indicating that those improvements would cost in excess of \$40,000. Finally, the taxpayers maintained that both comparable sales and the assessor's appraisals of other homes in the area support a reduction in value.

The assessor contended that this parcel should remain valued at \$407,600. In support of this position, Mr. Easter introduced the December 19, 2005 sale of a home located at 4704 Niles Ferry Road for \$395,000. Mr. Easter asserted that the sale supports a value of \$409,611 for the subject after adjustments.

The assessor also introduced the January 12, 2006 sale of an unimproved 2.10 acre tract located on Old Niles Ferry Road for \$143,000. Mr. Easter testified that he included this sale in his analysis to show how land values have been increasing in the immediate area.

B. Parcel 58.00

The taxpayers contended that the dwelling on this parcel is reaching the end of its economic life and may very well be razed in the near future. Once again, the taxpayers asserted that the assessor's appraisals of other homes in the area support a reduction in value. The taxpayers also introduced the September 29, 2006 sale of a home located at 1009 Glover Road in Rockford for \$148,000.

The assessor contended that this parcel should remain appraised at \$132,800. Mr. Easter essentially argued that although the primary value of subject parcel is in the land, the dwelling continues to have contributory value and an appraisal of only \$57,800 appears reasonable. Given the lack of any truly comparable sales, Mr. Easter relied on the cost approach as summarized by the property record card.

III. Analysis

Since the taxpayer is appealing from the determination of the Blount County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that much of the taxpayers' proof is certainly relevant to the issue of value. However, the administrative judge finds that the taxpayers' evidence cannot provide a reliable basis of valuation absent additional analysis. Most importantly, the administrative judge finds that the comparable sales were not adjusted despite the obvious differences between subject homes and the comparables. The administrative judge finds that the Assessment Appeals Commission concisely addressed the need to adjust comparable sales in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the

subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. The administrative judge finds that the procedure typically utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001).

The administrative judge finds that the taxpayers also offered no proof with respect to the value of subject land which is especially relevant with respect to parcel 58. The administrative judge finds that although the land sale introduced by the assessor did not occur until January 12, 2006, the Assessment Appeals Commission has ruled that post-assessment date events can properly be allowed into evidence to confirm what could have reasonably been assumed on the assessment date or to show a trend in values. See *George W. Hussey* (Davidson Co., Tax Year 1992); and *Christine Hopkins* (Franklin Co., Tax Years 1995 and 1996). The administrative judge finds that the vacant land sale was introduced

simply to demonstrate the increase in land values in the immediate area. Moreover, the administrative judge finds it reasonable to assume that the tract was for sale on January 1, 2006, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

The administrative judge finds that the State Board of Equalization has historically refused to consider the assessor's appraisals of other parcels in determining market value. As explained by Administrative Judge Pete Loesch in *William J. & Bethany J. Whitson* (Davidson Co., Tax Year 2005):

... Historically, the State Board has adhered to a market value standard in the review of property assessments. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy. But this agency has repeatedly refused to accept the **appraised** values of purportedly comparable properties as sufficient proof of the **market** value of a property under appeal. In the Appeal of *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994, Final Decision and Order, December 7, 1995), the Commission reasoned as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Id. at p. 2.

Initial Decision and Order at 2.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2006:

Parcel 57.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$89,500	\$318,100	\$407,600	\$101,900

Parcel 58.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$75,000	\$57,800	\$132,800	\$33,200

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

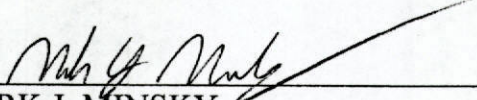
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12

of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of November, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Belar B. III & Maxine Hunt
Mike Morton, Assessor of Property